

Notice of Allowability

Application No.

09/910,780

Examiner

Konata M. George

Applicant(s)

REED ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- ☒ This communication is responsive to Amendment filed June 8, 2004.
2. ☒ The allowed claim(s) is/are 40, 44-61 and 63-66 (renumbered 1-23).
3. ☒ The drawings filed on 24 July 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

THURMAN K. PAGE
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 1600

DETAILED ACTION

Claims 40, 44-61 and 63-66 are pending in this application.

Action Summary

1. Examiner acknowledges the addition of claims 65 and 66.
2. The rejection of claims 58-60 under 35 U.S.C. 112 first paragraph, as lack of enabling the prophylaxis of a disease is hereby withdrawn as applicant has removed the phrase "or prophylaxis" from the claim.
3. The rejection of claims 44-46, 51, 57, 61 and 63 under 35 U.S.C. 103(a) over Hui et al. is hereby withdrawn as applicant has amended the claim to distinguish it over the prior art.

Statement of Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance:

The claims are allowable over the cited prior art because the prior art does not teach, disclose nor make obvious a non-occlusive transdermal drug delivery system comprising at least one active agent, at least one dermal penetration enhancer and at least one volatile liquid. The closest prior art of Hui et al. teaches a topical composition containing penetration enhancers. Hui et al. does not teach that the transdermal delivery system is non-occlusive as defined by applicant.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Claims 40, 44-61 and 63-66 are allowed.

Telephone Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is (571) 272-0613. The examiner can normally be reached from 8AM to 5:30PM Monday to Thursday, and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

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